

REMARKS

Claims 1 through 17 remain in the application. Claim 1 has been amended to correct a clerical error.

In the Office Action, the abstract was rejected because the abstract as originally filed compared the invention with the prior art. By this amendment, the abstract has been amended to obviate this rejection.

No new matter has been added. As set forth below, all claims 1-17 are believed to be in condition for allowance.

A. Claim Rejections under 35 U.S.C. §112.

In the Office Action, claims 1-17 were rejected under 35 U.S.C. §112 second paragraph, as being indefinite. These rejections are respectfully traversed.

Claims 1-17 were rejected under 35 U.S.C. §112 second paragraph, as being indefinite. More particularly, referring to claim 1, the Examiner stated that there was insufficient antecedent basis for limitations “the dispensing port”, “the sealed reservoir”, “the pressure relief port”, “the channel”, and “the recess”.

Applicants respectfully point out that in claim 1, the subject application defines:

1. An inhaler comprising:

a sealed reservoir including a dispensing port;

a channel communicating with the dispensing port and including a pressure relief port;

a conduit providing fluid communication between an interior of the sealed reservoir and the pressure relief port of the channel;

a cup assembly movably received in the channel and including,

a recess adapted to receive medicament when aligned with the dispensing port,

a first sealing surface adapted to seal the dispensing port when the recess is unaligned with the dispensing port, and

a second sealing surface adapted to sealing the pressure relief port when

the recess is aligned with the dispensing port and unseal the pressure relief port when the recess is unaligned with the dispensing port.

Applicants respectfully submit that antecedent basis (as underlined) are provided for limitations “the dispensing port”, “the sealed reservoir”, “the pressure relief port”, “the channel”, and “the recess” in claim 1.

For the same reason, it is submitted that there is sufficient antecedent basis for the limitations of claims 2-17. In view of the above remarks, there is no proper basis for the rejections under 35 U.S.C. §112, and those rejections should be reconsidered and withdrawn.

B. Claims 1, 2, 4-7, 9 and 16 (Rejection Under 35 U.S.C. §102(b))

Claims 1, 2, 4-7, 9 and 16 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,065,471 to Schaeffer et al. Issue is taken with that position.

Claim 1 is an independent claim. Claims 2, 4-7, 9 and 16 are dependent claims, which directly or indirectly depend from claim 1, providing further limitations to claim 1.

The invention of the subject application, as claimed in claim 1, defines an inhaler having a channel communicating with a dispensing port and including a pressure relief port, and a cup assembly movably received in the channel. In contrast, Schaeffer does not disclose an inhaler having a channel and a cup assembly. Therefore, claim 1, as well as claims 2-17 depend therefrom should be considered patentable over Schaeffer. The rejection should be reconsidered and withdrawn.

C. Claims 3, 9-15 and 17 (Rejection Under 35 U.S.C. §103(a))

Claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer et al. in view of U.S. Patent No. 6,029,661 to Whaley et al.

Claims 9 and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer et al. in view of U.S. Patent No. 5,119,806 to Palson et al.

Claims 11, 12, 14, and 15 were rejected under 35 U.S.C. 103(a) as being

unpatentable over Schaeffer et al. in view of U.S. Patent No. 6,405,727 to MacMichael et al.

Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Whaley et al. in view of Palson et al.

Claim 17 was rejected under U.S.C. 103(a) as being unpatentable over Schaeffer et al. in view U.S. Patent No. 5,740,792 to Ashley.

Claims 3, 9-15 and 17 are all dependent claims, which directly or indirectly depend from Claim 1. Claims 3, 9-15 and 17 include the limitation of Claim 1, providing further limitations to claim 1.

As discussed above, Schaeffer does not disclose or suggest a device having a channel and a cup assembly as defined in claim 1 of the subject application. The other references do not teach or suggest a channel and cup assembly as defined in claim 1 as well. Therefore, claim 1, as well as claims 2-17 depend therefrom, of the subject application, should be considered patentable over Schaeffer alone or in combination with the other references. Those rejections should be reconsidered and withdrawn.

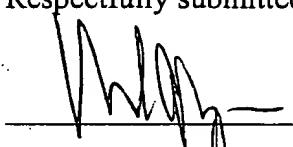
CONCLUSION

On the basis of the foregoing amendments and remarks, Applicants respectfully submit that all of pending claims 1-17 are in condition of allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment to Deposit Account No. 50-1133.

Respectfully submitted,

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